

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JACOB SMITH,)	Case No. 2:20-cv-03755
)	
Plaintiff,)	
)	Judge Edmund A. Sargus
v.)	Magistrate Judge Kimberly A. Jolson
)	
FIRSTENERGY CORP., <i>et al.</i> ,)	
)	
Defendants.)	
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JAMES BULDAS,)	Case No. 2:20-cv-03987
)	
Plaintiff,)	Judge Edmund A. Sargus
)	Magistrate Judge Kimberly A. Jolson
v.)	
)	
FIRSTENERGY CORP., <i>et al.</i> ,)	
)	
Defendants.)	
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BRIAN HUDOCK and CAMEO COUTERTOPS, INC.,)	Case No. 2:20-cv-03954
)	
Plaintiffs,)	Judge Edmund A. Sargus
)	Magistrate Judge Kimberly A. Jolson
v.)	
)	
FIRSTENERGY CORP., <i>et al.</i> ,)	
)	
Defendants.)	
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**PLAINTIFFS' MOTION TO SET
BRIEFING SCHEDULE ON PENDING DISPOSITIVE MOTIONS**

Plaintiffs respectfully move this Honorable Court to set a briefing schedule concerning the pending dispositive motions described below. This motion is consistent with the governing scheduling order. Plaintiffs' counsel has conferred with Defendants' counsel who have indicated

that they will assess their position and respond as they deem appropriate after Plaintiffs file this motion.

Plaintiffs file this motion to ensure clarity as to when responses and replies to these pending motions are due. This Court should grant the relief requested in this motion for the following reasons:

1. On November 10, 2021, Plaintiffs filed their Consolidated Amended Class Action Complaint (the “Amended Complaint”). ECF No. 75.

2. All of the Defendants have filed answers to the Amended Complaint, except for Defendant James F. Pearson (“Pearson”) and newly-added Defendant FirstEnergy Solutions Corp. n/k/a Energy Harbor Corp. (“Energy Harbor”). ECF No. 84 (Defendants FirstEnergy Corp.’s and FirstEnergy Service Company’s answer); ECF No. 85 (Steven E. Strah’s and K. Jon Taylor’s answer); ECF No. 90 (Defendant Charles E. Jones’ answer); and ECF No. 92 (Defendant Michael Dowling’s answer). Defendant Energy Harbor waived service of process of the Amended Complaint, making its answer or responsive pleading due January 11, 2022. ECF No. 88 (waiver of service of summons). And, as discussed below, Defendant Pearson filed a motion to dismiss the Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6).

3. On November 19, 2021, after answering the Amended Complaint, Defendants FirstEnergy Corp. and FirstEnergy Service Company (the “FirstEnergy Defendants”) filed a motion, pursuant to Federal Rule of Civil Procedure 12(c), seeking judgment on the pleadings and the entry of an Order disposing of this matter. ECF No. 87. Defendants Michael J. Dowling and Charles E. Jones subsequently moved to join the FirstEnergy Defendants’ motion for judgment on the pleadings. ECF. No. 93.

4. On November 24, 2021, Defendant Pearson filed his Rule 12(b)(6) motion in response to the Amended Complaint seeking dismissal, or final disposition, of this suit against him. ECF No. 91.

5. Unless “a Judge orders otherwise,” this District’s Local Rules require that Plaintiffs respond to each of the above-referenced dispositive motions within 21 days and that the FirstEnergy Defendants and Defendant Pearson file their respective replies within 14 days after Plaintiffs’ responses are filed. L.R. 1.1(c) & 7.2.

6. On March 5, 2021, Magistrate Judge Kimberly A. Jolson entered a scheduling order in this matter (the “Scheduling Order”). The Scheduling Order modifies the default briefing deadlines set forth in the Local Rules. Specifically, under Section 10 of the Scheduling Order,

[a]ll submissions in response to any dispositive motion shall be served and filed by sixty (60) days after the dispositive motion is served and filed ... [and that] [a]ll replies in support of any dispositive motion shall be served and filed thirty (30) days after the submission in response to the dispositive motions is served and filed.

Id. at p. 7.

7. Sixty (60) days from November 19, 2021—*i.e.*, the date when the FirstEnergy Defendants filed their motion—is January 18, 2022. Sixty (60) days from November 24, 2021—*i.e.*, the date when Defendant Pearson filed his Rule 12(b)(6) motion—is January 23, 2022.

8. Plaintiffs seek the entry of the below-referenced briefing schedule to ensure that there is no ambiguity or confusion concerning the response and reply deadlines concerning the pending motions.

WHEREFORE, Plaintiffs respectfully request the entry of an Order: setting January 18, 2022 as the due date to file any response in opposition to the FirstEnergy Defendants’ motion (ECF No. 87) and the Notice by Defendants Michael J. Dowling and Charles E. Jones (ECF No. 93); setting January 23, 2022 as the due date to file any response in opposition to Defendant Pearson’s

motion (ECF No. 91); setting February 17, 2022 as the due date to file any reply in further support of FirstEnergy Defendants' motion (ECF No. 87) and the Notice by Defendants Michael J. Dowling and Charles E. Jones (ECF No. 93); setting February 22, 2022 as the due date to file any reply in further support of Defendant Pearson's motion (ECF No. 91); and granting Plaintiffs any further or additional relief as deemed just and appropriate.

Dated: December 1, 2021

Respectfully submitted,

s/ Dennis E. Murray, Jr.

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CERTIFICATION

This is to certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic system. Parties may access the filing through the Court's system on this 1st day of December 2021.

s/ Dennis E. Murray, Jr.

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